

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

AARON GARCIA,

Plaintiff,

Case No.: 2:21-cv-11649

v.

HON.

MUELLER STREAMLINE CO.,  
a foreign corporation,

WCCC Case No. 21-007008-NP  
Hon. Muriel Hughes

Defendant.

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**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441, Defendant Mueller Streamline Co. (“Mueller”), by filing this Notice of Removal, removes this action from the Wayne County Circuit Court to the United States District Court for the Eastern District of Michigan, Southern Division on the ground that federal subject matter jurisdiction exists under 28 U.S.C. § 1332. In support of removal, Mueller states:

**I. OVERVIEW**

1. On June 10, 2021, Plaintiff Aaron Garcia (“Garcia”) filed a complaint against Mueller in Wayne County Circuit Court, State of Michigan, Case No. 2021-007008-NP (“State Court Action”). A copy of the Complaint, Jury Demand, and written discovery served with the Complaint is attached as Exhibit 1.

2. Mueller received a copy of the Summons and Complaint by certified mail on or about June 15, 2021. A copy of the Summons and service of process transmittals are attached as Exhibit 2.

3. A copy of the State Court Action docket is attached as Exhibit 3.

4. There have been no further proceedings and no additional pleadings or documents filed or served upon Mueller in the State Court Action.

## **II. GROUNDS FOR REMOVAL**

5. Removal of any civil action brought in a state court of which the district courts of the United States have original jurisdiction to the district court of the United States for the district embracing where such action is pending is proper under 28 U.S.C. § 1441(a).

6. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has original diversity jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

### **A. Diversity of Citizenship**

7. Garcia and Mueller are citizens of different states.

a. As alleged in the Complaint, Garcia is a resident of the County of Wayne, state of Michigan. Exhibit 1, Complaint ¶ 1.

- b. Upon knowledge and belief, Garcia's domicile is in the County of Wayne, State of Michigan, and Garcia is a citizen of Michigan.
- c. Mueller is a Delaware corporation with its principal place of business in Tennessee. Therefore, Mueller is a citizen of Delaware and Tennessee, but Mueller is not a citizen of Michigan.

### **B. Amount in Controversy**

8. Garcia's Complaint states "the amount in controversy in this litigation exceeds the sum of Twenty-Five Thousand (\$25,000.00) Dollars, exclusive of costs, interest, and attorney fees. Exhibit 1, Complaint, ¶ 4.

9. Pursuant to Local Rule 81.1, Plaintiff's Complaint alleges a claim in an undisclosed amount above \$25,000.00, which Mueller believes exceeds \$75,000.00.

10. Mueller alleges the amount in controversy exceeds the required jurisdictional amount and sets forth the below facts and reasons in support.

11. The Complaint asserts that on or about June 26, 2020, Garcia was installing a 3-ton Mini Split Air Condition unit ("Unit") allegedly manufactured by Mueller. Exhibit 1, Complaint, ¶¶ 6-7.

12. Garcia alleges while installing the Unit, he was handling a nitrogen-pressurized copper tube line and its cap exploded off the tubing line, striking Garcia in the eye. Exhibit 1, Complaint, ¶¶ 10-11.

13. Garcia alleges “serious and permanent injuries” to his eye, including:

- a. Traumatic iritis OS;
- b. Traumatic hyphema OS;
- c. Traumatic mydriasis OS; and
- d. Photophobia, headache, decreased vision. Exhibit 1, Complaint,

¶ 25.

14. Garcia’s pre-suit claim notice also alleges his pupil is blown out preventing him from watching television, looking at a computer screen or welding (due to the blue/white flame). A copy of the claim notice letter is attached as Exhibit 4.

15. Garcia seeks recovery for the above injuries, and he claims damages for the following:

- a. Medical expenses;
- b. Wage loss;
- c. Denial of social pleasures and the inability to enjoy the normal functions of life;
- d. Physical pain and suffering, weakness, and disability;
- e. Mental anguish, embarrassment, humiliation, and mortification;
- f. Emotional trauma, fright and shock; and

g. Other damages permitted by law. Exhibit 1, Complaint, ¶¶ 10, 25.

16. Given the nature of Garcia's alleged injuries and alleged medical expenses and wage loss, the amount in controversy, exclusive of interest and costs, plausibly exceeds \$75,000, and under applicable law, the jurisdictional amount is therefore satisfied. *See* 28 U.S.C. § 1332(a); *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 135 S. Ct. 547, 554 (2014) ("a defendant's notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.").

17. The Court has original jurisdiction under 28 U.S.C. § 1332(a)(1) because this is an action between citizens of different states and the matter in controversy exceeds \$75,000.00, exclusive of interest and costs.

### **III. PROCEDURAL REQUIREMENTS**

18. This Notice of Removal has been timely filed within 30 days after service of the Complaint pursuant to 28 U.S.C. § 1446(b).

19. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal has been filed with the Clerk of the Wayne County Circuit Court, State of Michigan and written notice has been provided to counsel for all other parties in this action.

20. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the United States District Court for the Eastern District of Michigan

is the federal judicial district embracing the Wayne County Circuit Court where the State Court Action was originally commenced. *See* 28 U.S.C. § 102(a)(1).

#### **IV. CONCLUSION**

21. The requirements of removal under U.S.C. §§ 1441 and 1446 have been met, and removal of the State Court Action is proper.

22. By filing this Notice of Removal, Mueller does not waive any objections as to service, personal jurisdiction, venue, or any other defenses. Mueller reserves all of its defenses and this Notice of Removal is filed subject to full reservation of rights, including all objections, arguments, and defenses to Plaintiff's Complaint.

**WHEREFORE**, Mueller has stated sufficient basis for removal under 28 U.S.C. § 1441 and respectfully requests that this matter proceed in federal court.

Respectfully submitted,

BUSH SEYFERTH PLLC

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Dated: July 15, 2021

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 15, 2021, I caused to be electronically filed a  
NOTICE OF REMOVAL with the Clerk of the Court using the ECF System.

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Respectfully submitted,

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